

REMARKS

35 U.S.C. § 103 Rejection of Claim 1-4, 7, 9-15, 18, 20-23

The Examiner rejects claim 1-4, 7, 9-15, 18, 20-23 under 35 U.S.C. § 103

(a) as being unpatentable over Fitzgerald (U.S. Patent No. 6,776,459) in view of Murin (U.S. U.S. 1,500,884). Specifically, the Examiner suggests that Fitzgerald teaches all the elements of Applicants' claim 1, but that Fitzgerald does not teach a spinner assembly through which an axle and hub is insertable therethrough in addition to a bushing. The Examiner posits that the general concept of providing a spinner through which an axle and hub is insertable therethrough in addition to a bushing in a spinner assembly is well known in the art as illustrated by Murin, which discloses the teaching of a spinner through which an axle and hub is insertable therethrough in addition to a bushing in a wheel spinner assembly. Applicant disagrees with and traverses the Examiner's rejections.

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. See M.P.E.P. § 2143.03. Applicants note that Fitzgerald teaches an air-driven rotating device 11 attached to the mounting cup 14 by the use of securing screws 15. The securing screws 15 hold together the cone end cap 10 and the air driven rotating device 11 to the mounting cup 14. The bearing 12 is held in place by the locking clip 13 onto the rotating device 11. The mounting cup 14 is secured to the axles by the setscrews 16. (For a description of the Fitzgerald device refer to Fitzgerald, column 3, lines 6-12).

However, Fitzgerald does not suggest or teach a spinner including a central bore through which a wheel axle shaft or a first side wheel hub is insertable during mounting of said wheel. Moreover, Fitzgerald does not teach that the spinner

rotates around the wheel axe 17 or a hub. Instead, Fitzgerald teaches the air driven rotating device 11 (i.e., spinner) is attached to the mounting cup 14 and the mounting cup 14 rotates with respect to an aft end of the cup 14. (See Figs. 1-3). More importantly, the portion of the spinner in Fitzgerald that is rotating rotates around a securing screw 15. The rotating portion does not rotate around the shaft or the hub (i.e., axle 17 of Fitzgerald). Indeed, no part of the rotating portion of the cup 14 rotates around axle 17. The rotation of the rotating portion of the cup 14 rotates around the securing screw 15, which is displaced from the axle 17.

Accordingly the rotating portion in Fitzgerald (e.g., the spinner), the spinner does not rotate around the axle as is claimed by the Applicants. See Fitzgerald, Figs. 1-3.

"To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). See M.P.E.P. § 2143.03.

A *prima facie* case of obviousness may also be rebutted by showing that the art, in any material respect, teaches away from the claimed invention. See M.P.E.P. § 2144.05. Applicants note that the disk 25 ("spinner") in Murin remains stationary and does not rotate at all. See Murin column 1, lines 9-18. Thus, Murin and Fitzgerald solve different problems and one of ordinary skill in the art at the time the invention was made, would not have been motivated to combine the two references to reach the applicants invention. That is, since Fitzgerald teaches a spinning disk ("spinner") and Murin teaches solving the problem of providing a stationary disk, it would not have been obvious to include the spinning functionality of Fitzgerald to Murin. To do so, would mean that the intended functionality of

Murin would be destroyed (stationary disk for providing advertising readily readable by others) or Fitzgerald would not function as taught (providing a rotating apparatus). Moreover, since Murin teaches a stationary disk and Fitzgerald teaches a rotating apparatus, then Fitzgerald necessarily teaches away from Murin, and one skilled in the art would not have been motivated to combine Murin with Fitzgerald for that reason as well.

Additionally, to establish the *prima facie* case of obvious, the examiner must show that the prior art reference (or references when combined) teach or suggest all the claim limitations. See M.P.E.P. § 2143. Applicants note that the combination of Murin and Fitzgerald do not teach or suggest a second spinner rotatably mountable to the wheel in proximity to the second wheel face as is claimed by the Applicants in applicants' independent claims 1, 12, and 23. Thus, the combination of Fitzgerald and Murin does not disclose or suggest all of the limitations in Applicants' claims 1, 12, and 23. Fitzgerald and Murin cannot sustain a proper section 103 rejection for this reason as well.

For the reasons noted above, Applicants respectfully request that the Examiner's section 103 rejection be withdrawn. Applicants respectfully assert that Applicants' independent claims (e.g., claims 1, 12, and 23) are patentable over the cited references and over the Examiner's application of the general knowledge pertaining thereto. Applicants note that if an independent claim is nonobvious under **35 U.S.C. 103**, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). See M.P.E.P. § 2143.03. As such, since Applicants' independent claims are patentable over the prior art, then those claims dependent from Applicants' patentable independent claims (e.g., claims 2-4, 7-11, 13-15, 18-22) are also patentable.

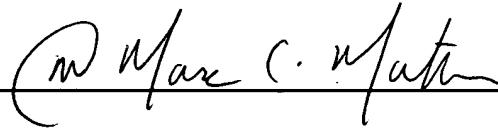
Applicants respectfully assert that Applicant's claims conform to section

112 and are all in a condition to be allowed.

If the Examiner would like to discuss the above Amendment and remarks in detail, the Examiner is invited to call the Applicants at the number shown below.

Date: September 14, 2005

Respectfully submitted:

A handwritten signature in black ink, appearing to read "Marc C. Mathis".

Marc C. Mathis, Inventor
302-668-8139